IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 11560 of 2004

Between:

M.Narayana, s/o Nagappa, aged 53 years, working as Travelling Ticket Examiner(Sleeper), South Central Railway, Vijayawada, r/o Vijayawada, Krishna District.

..... PETITIONER

AND

1. The Additional Divisional Railway Manager, South Central Railway, Division Office,
   Vijayawada.
2. The Senior Divisional Commercial Manager, South Central Railway,
   O/o The Divisional Railway Manager, Vijayawada.
3. The Divisional Commercial Manager, O/o The Divisional Railway Manager,
   South Central Railway, Vijayawada.
4. The Chief General Manager, South Central Railway, Rail Nilayam,
   Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of mandamus to set aside the final orders of the Central Administrative Tribunal passed in O.A.No.178/03 dated 15-3-04 and consequentially direct the respondents to reinstate the petitioner into service with all consequential benefits holding that orders dated 30-9-02 wherein compulsory retirement punishment is imposed in violation of para 704 & 705 of the vigilance manual and the judgments of the Honourable Central Administrative tribunal as confirmed by the Honourable High Court.

Counsel for the Petitioner: MR.K.R.SRINIVAS
Counsel for the Respondents : MR.R.S.MURTHY

The Court at the admission stage made the following :

<u>O R D E R: (per the Hon'ble Sri Justice J.Chelameswar)</u>

Aggrieved by the order dated 15.03.2004 in O.A.No.178 of 2003 on the file of the Central Administrative Tribunal, the unsuccessful petitioner therein preferred the present writ petition.

2. The petitioner was working as Travelling Ticket Examiner (sleeper) in the South Central Railways. A charge memo was issued to the petitioner on 18.03.1997 on account of a decoy trap. Enquiry was conducted and the petitioner was found guilty of the charges. By an order dated 03.09.1998 the third respondent imposed punishment of reduction in time scale by two stages for a period of one year with cumulative effect. The petitioner preferred an appeal to the second respondent. In the meanwhile the first respondent suo motu decided to enhance the punishment of the petitioner and called for an explanation and after receipt of the explanation by an order dated 29.12.1999 imposed a punishment of compulsory retirement. Challenging the said order of compulsory retirement, the petitioner herein moved the Central Administrative Tribunal by way of O.A.No.11 of 2000.

3. It appears from the record that the only ground on which the said order was challenged is that the first respondent did not have a competence to enhance the punishment. The said O.A.No.11 of 2000 was dismissed by an order dated 30th April 2001. However, during the pendency of the said O.A., by virtue of interim order passed by the Central Administrative Tribunal, the petitioner was taken back into the service on 25.01.2000 while keeping the order dated 29.12.1999 of compulsory retirement in abeyance. As O.A.No.11 of 2000 was dismissed, the petitioner challenged the order of dismissal in W.P.No.11816 of 2001 which he eventually withdrew on 07.01.2004.

4. In view of the fact that there was no interim order pending the writ petition No.11816 of 2001, the first respondent passed an order dated 30th

September 2002. The relevant portion of the order reads as follows:

Further to this office Memorandum of even No. dated 25.1.2000 the undersigned Revising Authority has passed the following orders.

I have gone through the notings and connected papers of the case file and the order dated 23.7.2002 in WP MP No.16757 of 2001 and W.V.M.P.No.1927 of 2002 of the Honourable High Court of A.P. and pass the following orders.

In as much as there is no order from any court in regard to Shri M.Narayana's continuance in service the memorandum dated 25/1/2000 by which the operations of the imposition of penalty of compulsory retirement orders w.e.f. 5.1.2000 kept in abeyance is hereby with drawn. Therefore the penalty of C.R. shall take effect from 4.10.2002.

Accordingly Shri M.Narayana, TTE/BZA is compulsorily retired from service with effect from 4.10.2002 the other terms and conditions contained in this office memorandum of even No. dated 29/12/1999 stands good.

Construing the order dated 30th September, 2002 to be a fresh order of compulsory retirement the petitioner herein once again moved the Central Administrative Tribunal in O.A.No.178 of 2003 which came to be dismissed by the order dated 15.03.2004 impugned in this writ petition.

5. The Tribunal while dismissing the above mentioned O.A.No.178 of 2003 held that the order dated 30.09.2002 is not an independent order of compulsory retirement, but only a reiteration of the early order dated 29.12.1999. But in the process, in the order, the first respondent narrated various factual developments that took place between 29.12.1999 and 30.09.2002. The substance of the order dated 30.09.2002 is only the postponement of the effective date of compulsory retirement to 04.10.2002.

6. The Central Administrative Tribunal, in our view, rightly came to the

conclusion that the petitioner is not entitled to have a second round of challenge to the order of compulsory retirement. We do not see any error either of jurisdiction or on merits of the order.

5. The writ petition is, therefore, dismissed at the admission stage. No costs.

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J.Chelameswar,J.

Dated 21st July, 2004.

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G.Raghuram,J.

Bsb

To

1. The Additional Divisional Railway Manager, South Central Railway, Division Office,
   Vijayawada.
2. The Senior Divisional Commercial Manager, South Central Railway,
   O/o The Divisional Railway Manager, Vijayawada.
3. The Divisional Commercial Manager, O/o The Divisional Railway Manager,
   South Central Railway, Vijayawada.
4. The Chief General Manager, South Central Railway, Rail Nilayam,
   Secunderabad.

5. The Central Administrative Tribunal, Hyderabad Branch, Hyderabad.

6. Two CD copies.